

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

Nos. 11-1885/2172

Robert Collin Houseal,	*
	*
Appellant,	*
	*
v.	* Appeals from the
	* Tax Court.
	*
Commissioner of Internal Revenue,	* [UNPUBLISHED]
	*
Appellee.	*

Submitted: October 27, 2011
Filed: November 1, 2011

Before MURPHY, ARNOLD, and BENTON, Circuit Judges.

PER CURIAM.

In these consolidated appeals, Robert Collin Houseal appeals the tax court's¹ dismissal of his petitions challenging notices of deficiency (NODs) for tax years 2006 and 2007. The Commissioner has moved for sanctions against Houseal.

After careful review, Campbell v. Comm'r, 164 F.3d 1140, 1142 (8th Cir. 1999) (standards of review for tax court decisions), we conclude that the tax court properly dismissed both petitions for the reasons explained by the court. We also

¹The Honorable Peter J. Panuthos, Special Trial Judge, United States Tax Court.

conclude that the court did not abuse its discretion in imposing a \$1,000 penalty on Houseal for filing a frivolous and groundless petition primarily for delay. See 26 U.S.C. § 6673(a)(1)(A), (B) (tax court may impose penalty not in excess of \$25,000 where taxpayer maintains proceeding primarily for delay or takes frivolous or groundless position); May v. Comm’r, 752 F.2d 1301, 1305 (8th Cir. 1985) (reviewing § 6673 penalty for abuse of discretion).

Specifically, we find frivolous the arguments Houseal raised in the tax court, and again on appeal, that his income was not taxable. See United States v. Clayton, 506 F.3d 405, 412 (5th Cir. 2007) (per curiam) (rejecting as frivolous and absurd, argument that income derived from sources within United States is not taxable); United States v. Bell, 414 F.3d 474, 475-76 (3d Cir. 2005) (argument that domestically earned wages of United States citizens are exempt from taxes has been universally discredited); see also In re Becraft, 885 F.2d 547, 548-49 (9th Cir. 1989) (imposing appellate sanctions for frivolous argument that federal tax laws do not apply to resident United States citizens). We also find meritless his arguments that the NODS were invalid. See Sather v. Comm’r, 251 F.3d 1168, 1176-77 (8th Cir. 2001) (NOD must indicate deficiency has been determined and identify taxpayer, taxable year involved, and amount of deficiency); Geiselman v. United States, 961 F.2d 1, 5 (1st Cir. 1992) (per curiam) (tax code does not require Commissioner to prepare substitute for return before determining and issuing NOD).

Finally, we may award “just damages” and single or double costs if we determine that an appeal is frivolous. See 28 U.S.C. § 1912; Fed. R. App. P. 38. In this case, we conclude that sanctions are appropriate. See United States v. Gerads, 999 F.2d 1255, 1256-57 (8th Cir. 1993) (per curiam).

Accordingly, we affirm the tax court’s dismissals, and we grant the Commissioner’s motion for sanctions in the amount of \$8,000.